

1 Q All right, but I mean there was a period of time,
2 then, that you were, that Peninsula was continuing to
3 operate, notwithstanding the Commission's order, and you had
4 not yet filed your appeal.

5 A That is correct. It's my understanding you have a
6 30-day period before the FCC order becomes final in which to
7 object, to file an appeal.

8 Q Well, I guess that's a matter we'll all get to
9 argue about at some point, but that's neither here nor there
10 right now. Did you inform anyone at the Commission that
11 Peninsula was going to continue to operate the seven
12 translators notwithstanding the Commission's order to stop
13 operation?

14 A I did a declaration, I believe it was dated
15 September 10th, that outlined my reasons for keeping the
16 translators on the air.

17 JUDGE SIPPEL: September 10 of what year?

18 THE WITNESS: Of 2001.

19 BY MR. SHOOK:

20 Q Before September 10, did you inform anybody at the
21 Commission that you were going to continue to operate the
22 translators?

23 A I don't **recall**.

24 Q Did you authorize anyone to inform the Commission
25 that Peninsula was going to continue to operate the seven

1 translators, notwithstanding the Commission's order to turn
2 them on?

3 A I know we filed our appeal and I don't believe we
4 had any other filings until we received the notice of
5 apparent liability.

6 Q Did you authorize anybody to state orally to
7 anyone at the Commission that Peninsula was not going to
8 turn its translators off?

9 A Oh I believe Mr. Southmayd had a conversation with
10 Mr., with Linda Blair, but I wasn't party to that.

11 Q Did Mr. Southmayd have that conversation with your
12 authorization?

13 A He's my counsel.

14 Q Did you authorize the conversation or did you
15 ratify it or did you do neither?

16 A You asked me a three-part question. I don't think
17 I authorized it. What was the other part?

18 Q Did you ratify it?

19 A I was in agreement w th the notice to inform --
20 The question was asked do you ntend **to** turn it off, the
21 answer was no, and I was in agreement with that.

22 Q What action, if any, did Peninsula take to have
23 the commission issue an order that would **supersede** the May
24 18, 2001 order that we've been looking at?

25 A The Commission immediately started **an** enforcement

1 action and we were rather shortly informed by FCC --
2 injunction from the Alaska District Court and at that point,
3 we properly filed an opposition to the injunction. We filed
4 notices of motions for stays of the injunction and we
5 tracked that whole proceeding through its conclusion.

6 We had asked for stays from the court in Alaska.
7 They came out, finally issued their injunction. We appealed
8 it to the Ninth Circuit. We asked for a stay from the Ninth
9 Circuit. The Ninth Circuit eventually said the only place
10 that you should go get your stay based on who has
11 jurisdiction is to go to the D.C. Circuit Court of Appeals.

12 We went then, when they issued that finding, we
13 then did seek a stay from the D.C. Circuit Court of Appeals
14 and they eventually denied it and the injunction finally
15 came into play and then we obeyed it and we turned
16 everything off.

17 Q The injunction action that you're referring to, it
18 didn't commence before the middle of July, did it?

19 A I don't know when it commenced.

20 Q I'm sure we could reach a stipulation to that, but
21 there seems to be a bit of confusion as to the timing of
22 certain things here when you say that there was some kind of
23 immediate action on the part of the Commission to seek an
24 injunction.

25 A Well in matter of weeks or perhaps a month or

1 something, some kind of a time frame, I consider that
2 immediate, as opposed to, you know, six months out or
3 something like that. It was relatively quick after this
4 order came out within a matter of weeks, they were jumping
5 on it and seeking the injunction.

6 Q But in terms of having a court issue an order, or
7 no. It's a different question, so I think the question that
8 I had asked before you probably didn't even answer and that
9 was what action, if any, did you take to have the Commission
10 issue an order that would supersede the May 2001 order.

11 A None. We timely -- We decided that we would file
12 our appeal and we timely filed our appeal within the 30-day
13 time frame and once that appeal was under way, it was our
14 understanding that that fell under Section 402 which came
15 within the scope of 405 and 405 lands under Section 307c3
16 which provides for even if your licenses are discontinued,
17 they continue in effect pending a final decision which
18 includes judicial review, and that's been our position all
19 along is that we have continuing authority with licenses
20 which continue in effect if an appeal has been timely filed
21 under Section 402 pursuant to --

22 Q And have you made that argument to a court other
23 than the D.C. Circuit?

24 A We did. However, other courts determined that
25 they didn't have jurisdiction to decide the issue and in

1 fact Judge Brewster's opinion for the Ninth Circuit said
2 that the injunction could be issued on a superficial basis
3 on a basis of procedure but could be substantively flawed.
4 That's footnote number eight of his opinion, and therefore
5 the legality of the FCC order was never determined by either
6 the Alaska District Court or the Ninth Circuit Court of
7 Appeals.

8 It never went to that issue. They determined the
9 only court with jurisdiction to decide the legality of the
10 FCC order was the D.C. Circuit Court of Appeals and we had
11 already filed our appeal to the D.C. Circuit seeking to get
12 the legality of the order resolved.

13 Q I'm going to bring to your attention Section 408
14 of the Act. I'm going to read it into the record. "Except
15 as otherwise provided in this Act, all orders of the
16 Commissions other than orders for the payment of money shall
17 take effect 30 calendar days from the date upon which public
18 notice of the order is given unless the Commission
19 designates a different effective date. **All** such orders
20 shall continue in effect for the period of time specified in
21 the order or until the Commission or a court of competent
22 jurisdiction issues a superseding order."

23 **Did** there come a time when you became aware of
24 that section, sir?

25 **A** I'm aware that there's a 30-day period in which to

file an appeal and if you don't, the order becomes
essentially final at that point and it's not appealable
after 30 days.

Q And is it your, is it your claim that the mere
filing of appeal acts to stay the effect of the Commission's
order?

A In this case, there's a question, a legal
question, of whether or not a stay is actually required and
that will be determined by the D.C. Circuit. That's one of
our issues, I believe, because 307c3 continues the license
in effect pursuant to any hearing, any rehearing that's
subject to 405 and appeals that are filed under 402 come
automatically under 405 and therefore licenses continue in
effect.

The Commission's policy has always been to permit
a licensee to operate pending an appeal so that there's no
disruption of service to the public and so every case
precedent that has ever existed regarding disqualified
licensees, they have been permitted to operate, and that is
our claim that comes out of 307c3, that that's where the
authority comes for continued operation.

Q And what case support are you aware of that
supports the argument that you've just made?

A The, all the case history favors a licensee
continuing to operate pending an appeal. The Commission

chose arbitrarily to deny Peninsula the same accommodation
2 and therefore they're, they have a problem with Article 706
3 of the Administrative Procedure Act which says you cannot
4 regulate arbitrarily, so you have this whole class, Pine
5 Lands Committee for Open Media, Contemporary Media, all of
6 these case precedents where they've been accorded permission
7 to operate pending a resolution of their appeal, there is no
8 case history that I'm aware of where a licensee has ever
9 been ordered off the air when an appeal has been timely
10 filed. I'm not aware of it.

11 Q well to summarize where we are at this point,
12 subsequent to the release of the May 18, 2001 order, by June
13 1, in other words at least 10 days later, you knew that the
14 Commission had ordered Peninsula to take the seven
15 translators off the air.

16 A Yes.

17 Q You disagreed with the Commission's order.

18 A Yes. We felt it was an unlawful order.

19 Q You believed the Commission's order was wrong

20 A Yes.

21 Q you took it upon yourself to determine whether
22 Peninsula should obey the Commission's order.

23 A There were **two** factors involved.

24 Q Well that may be by way *of* explanation, but all
25 I'm asking for now is a yes or no response.

1 A Yes.

2 Q You decided that the only way to preserve your
3 stations was to continue to operate them contrary to the
4 Commission's order.

5 A Yes, and had we turned them off when ordered to do
6 so, my appeal would have been over four months ago.

7 Q That's what you believe anyway.

8 A It's what I believe. That's my state of mind.

9 Q Which is supported by what?

10 A By Section 312G which says if you fail to
11 broadcast for 12 consecutive months, your licenses
12 automatically expire. The Commission is out of the loop on
13 312G. Your licenses go away after 12 months. If 307C3
14 continues, then, in effect, failing to broadcast for 12
15 consecutive months takes them out automatically and
16 therefore you have no appeal because the corpus of your
17 appeal is gone after 12 months.

18 Q **Now** I believe I asked something similar to this
19 before, but subsequent **to** the May 18, 2001 order, did
20 Peninsula take any action to have any court stay the
21 effect --

22 A No.

23 Q -- of that order?

24 A I would clarify that. We did request the stay
25 from the Alaska District Court. We requested a stay from

1 the Ninth Circuit Court. We requested a stay from the D.C.
2 Circuit Court. All of those were denied apparently on a
3 procedural basis, not on the substance or the merits of our
4 arguments with regard to 307C3 and 312G. They were denied
5 on the four-prong test of granting a stay which had to do
6 with irreparable harm as another basis.

7 Q Now, run by me again what, if anything, prevented
8 Peninsula from obeying the Commission's order and seeking a
9 stay of that order from the court?

10 A Because we went through the whole route through
11 the Alaska District Court. We asked for a stay from that
12 court of the enforcement issue. We felt like we had the
13 right to be on the air because the 307C3 granted continued
14 operation pending an appeal so our authority rests in 307C3
15 to remain on the air.

16 We did request a stay from the District Court,
17 like I said, from the Ninth Circuit. All of those stays had
18 to pass the four-prong test and the most difficult part to
19 show, of course, was irreparable harm and it did not go to
20 the merits of any of the legality of the May 2001 order and
21 all those courts essentially said the only court empowered
22 to resolve that issue is the D.C. Circuit Court of Appeal in
23 which we had already timely filed an appeal.

24 Q I believe we talked about Peninsula having filed
25 an appeal of the May 18, 2001 order with the D.C. Circuit on

1 or about June 15, 2001.

2 A It was timely filed within the 30-day time period.

3 Q This was not the first time Peninsula had filed an
4 appeal with the D.C. Circuit Court of Appeals with respect
5 to Commission orders concerning its translators, correct?

6 A That is correct.

7 Q Now directing your attention back to Official
8 Notice Exhibit 12. That's the February 2000 Commission
9 order. Isn't it true that Peninsula filed an emergency
10 motion for stay of that order with the D.C. Circuit Court of
11 Appeals on March 8, 2000?

12 A I'm not sure of the date, but I believe **we** did
13 request a stay. Yeah, I'm a little fuzzy on that, but I
14 mean we did a lot of them, but I think that's right.

15 Q **Would** it be fair to state that Peninsula's motion
16 asked the court to stay the Commission's directive to
17 Peninsula to consummate the sale of the translators to
18 Coastal or risk the loss of the licenses?

19 A You know, I don't, do you have a copy of that? I
20 don't recall if there is. **If** you could show that to me, it
21 would be a lot --

22 MR. SOUTHMAYD: **We** can stipulate we filed one if
23 that helps. We can **stipulate we** filed one *if* that helps,

24 MR. SHOOK: Oh. It's not so much a matter **of**
25 whether or not one was filed as to what was stated in the

1 motion. Your Honor, given the way that our exhibits are
2 already marked, I would mark this one for identification as
3 Enforcement Bureau Exhibit 26. It is a 13-page document
4 entitled Emergency Motion for Stay in Case Number 00, it
5 looks like 1279. It's a little difficult to make out the
6 handwriting that appears on this.

7 JUDGE SIPPEL: Okay, we'll make that as Exhibit
8 Number 26 that has been marked.

9 (The document was marked for
10 identification as EB Exhibit
11 No. 26.)

12 MR. SHOOK: I'm going to give the court reporter
13 two copies.

14 JUDGE SIPPEL: Yes. Yes. The numbers are going
15 to come in a little bit different, but that's all right. We
16 can deal with that.

17 MR. SHOOK: Or excuse me. Yeah, that should be
18 Enforcement Bureau Exhibit, EB 26.

19 JUDGE SIPPEL: EB 26. That's correct.

20 MR. SHOOK: I'm going to give one to Your Honor,
21 to **Mr.** Southmayd and to Mr. Becker.

22 (Discussion off the record.)

23 JUDGE SIPPEL: We'll go off the record while the
24 witness gets familiar with this.

25 (Whereupon, a brief recess was taken.)

1 JUDGE SIPPET: On the record.

2 BY MR. SHOOK:

3 Q Would it be fair to state that Peninsula's motion
4 asked the court to stay the Commission's directive to
5 Peninsula that it consummate the sale of the translators to
6 Coastal or risk the loss of the licenses?

7 A Repeat the question. I'm just not getting it.
8 I'm sorry.

9 Q That's fine. Would it be fair to state that
10 Peninsula's motion asked the court to stay the Commission's
11 directive to Peninsula that it consummate the sale of the
12 translators to Coastal or risk the loss of the licenses?

13 A The request, the motion was to stay the February
14 2000 order. I'm having trouble with the second part of your
15 question. Risk the loss of the sale? I don't understand.

16 Q The Commission's memorandum opinion and order
17 basically ordered Peninsula and Coastal to consummate the
18 sale.

19 A Yes. It added new conditions as well, but yes, it
20 did say consummate and a new time period, 30 days.

21 Q Or something was going to happen.

22 A Yes.

23 Q And that something was what?

24 A Lose the loss of the licenses, yes.

25 Q And so Peninsula sought relief from the Court of

1 Appeals from that order

2 A We did.

3 Q And what did the court do?

4 A Well it's a usual problem when you go before the
5 D.C. Circuit Court. You have to pass a four-prong test.
6 It's a very high threshold and unless you can prove that you
7 prevail on the merits and that you won't, there will be
8 irreparable harm and that the public interest is served
9 You have to pass all four tests in order for the stay to be
10 granted and they denied it.

11 Q What did Peninsula do as a consequence of the
12 court's action?

13 A This is the February 2000 order. We timely filed
14 a Section 1.110 rejection under the FCC rules of the order
15 because we did not accept the new conditions which were
16 modifying the Seward translator licenses without a 316 show
17 cause order and adding a new condition that we terminate the
18 sale within 30 days, we consummate the sale within 30 days,
19 and so that rejection was timely filed of the order which
20 should have been set, should have vacated this order and set
21 it for a hearing according to 1.110 **as** other applications
22 were set for hearing

23 Q The action that you're referring to, is *that what*
24 *appears*, is that the document that appears following
25 Enforcement Bureau tab 20?

1 A Yes.

2 Q Now at the time you filed, Peninsula filed this
3 rejection of conditional license renewal and assignment of
4 license grants with the Commission, did it not already have
5 an appeal filed at the D.C. Circuit?

6 A Yes. Yes. We had both, we had filed both things
7 in both places.

8 Q In light of this, in light of the background that
9 we have just gone through, didn't you know in June 2001 that
10 filing an appeal of Official Notice Exhibit 13 which is the
11 Commission's May 18, 2001 order, with the D.C. Circuit Court
12 of Appeals had no effect whatsoever on Peninsula's
13 obligation to comply with the order to terminate the
14 operations of the translators?

15 A The order to terminate the translators within one
16 day notice was contrary to every other accommodation that's
17 ever been accorded any other licensee in a proceeding, and
18 we determined that we had the right to stay on the air and
19 we determined that we would not file a stay at that time.

20 Q And so by that answer, are you telling us that
21 filing the appeal was sufficient to stay the Commission's
22 order?

23 A No, it wasn't *sufficient*. It points out the
24 problem that the Commission puts a licensee in when they
25 issue an order to terminate on a license renewal proceeding

1 within one day when they have no statutory authority for
2 doing it and it places the Commission like I've been placed
3 in a spot of having to decide to disobey the order or
4 forfeit my appeal in 12 months.

5 Q I want to point something out to you. In terms of
6 disobeying the Commission's order, if I understand you, the
7 problem is that you do not want to have a 12-month period in
8 which there is no operation of the translators because that
9 would cause a loss of license.

10 A That is correct.

11 Q Now with respect to the Kodiak translators, didn't
12 we just determine that in 1997, there was action taken by
13 peninsula to feed those translators via satellite when it
14 didn't have authority to do so and that that was the very
15 act that at least to this point in time has kept those
16 translators alive.

17 A I would say with respect to one translator, that
18 may be true but not the other.

19 JUDGE SIPPEL: Could you help us understand the
20 difference between the two.

21 THE WITNESS: Yes. Okay. Well the translator for
22 KWVV was on the air essentially up until the point that we
23 turned them both off, aside from the time that it was
24 temporarily fed while we were testing our satellite feed, it
25 remained on the air. The other station was off for the

1 duration, I would say roughly three months. It came back on
2 the air.

3 We were testing it and then they both went off
4 together in the autumn or the fall of '97 and remained off
5 the air for the duration until, not off the air for less
6 than a year because we did turn them back on with a
7 different feed from a different station in '98, but they did
8 not broadcast our stations in Kodiak from the fall of '97
9 through January of 2001.

10 So my stations were effectively off the air in
11 Kodiak for over three years.

12 Q But in terms of the translators themselves, the
13 one translator had a less than 12-month break in service
14 because it was barely able to receive KWVV-FM and then
15 ultimately less than 12 months later switched over to a
16 local Kodiak non-commercial station. Correct?

17 A Yes. Essentially if the issue is whether or not
18 they transmitted a signal which is what the 36, 312G statute
19 is, the question did it transmit a signal within the 12-
20 month consecutive period, yes it did. Did it do so legally?
21 No, and that's an issue which, you know, you can go wherever
22 you want to, but it was on the air and it was not off the
23 air for more than 12 consecutive months, so it complied with
24 being on the air under 312G.

25 It did not comply with having authority to go to

1 the satellite feed which we were expecting on a day-to-day
2 basis because we had applied for the waivers and we thought
3 the Commission would grant them any day. We were basically
4 set to go assuming we were going to get authority and we
5 were ready to pull the switch.

6 Q In terms of continuous operation, though, what you
7 could have done for the seven translators after the
8 Commission ordered you off the air, if Peninsula was so
9 concerned about the operation of 312G, what prevented it
10 from going off the air and then before the 12 months were up
11 coming back on for a day? Wouldn't that have satisfied your
12 understanding of 312G?

13 A Well it wouldn't have satisfied the public
14 interest.

15 Q That's something entirely different, sir, is it
16 not?

17 A Well, I don't know. May I say something?

18 Q Yes.

19 A The Commission has stated as a general policy that
20 they consider it to be in the public interest for a
21 disqualified licensee to continue to broadcast pending a
22 resolution of an appeal and that's our position is that
23 we're there to serve the public. We kept the translators on
24 to both avoid the automatic expiration of our appeal after
25 12 months and to serve the public. We've been on the air

1 for 19 years in some cases.

2 Q You also realize, though, that such action had an
3 impact on your competitors in each of the affected markets?

4 A That wasn't a consideration of mine.

5 Q You do understand, though, that that's what
6 happened. That was a result.

7 A I have been in those markets for 19 years. Those
8 translators have impacted my competitors for 19 years.

9 Q I direct your attention now to Official Notice
10 Exhibit 14 or what follows that tab.

11 A I'm there.

12 Q Did there come a time when you became aware of
13 this document?

14 A Yes.

15 Q You became of it on or shortly after its release
16 date?

17 A **No.** This is the document that I never got
18 official service on.

19 Q Did you receive a copy of it by some other means?

20 A Yes, through Jeff Southmayd.

21 Q Approximately when?

22 A First part of September would be my guess.

23 Q Did *you* become aware at that time that *the*
24 Commission had determined that Peninsula had apparently
25 defied the Commission's previous order, that being Official

1 Notice Exhibit 13 by continuing to operate translators after
2 being ordered to terminate their operations?

3 A You're referring to 13?

4 Q Twelve. My question perhaps is a bit convoluted
5 and it's late in the day so it may also be a little bit
6 difficult to follow, but in reading Official Notice Exhibit
7 14, did you become aware that the commission determined that
8 Peninsula had apparently defied --

9 A Yes.

10 Q -- its previous order?

11 A Yes.

12 Q Were you also aware that the Commission ordered
13 Peninsula to submit a statement informing the Commission as
14 to whether or not Peninsula was going to continue to operate
15 the translators despite the Commission's order to terminate?

16 A Yes.

17 Q At the time that you read the order that is
18 Official Notice Exhibit 14, did you understand that the
19 commission had reiterated its earlier order, that is
20 Official Notice Exhibit 13, that Peninsula terminate the
21 operation of the translator stations?

22 A Yes.

23 Q Did Peninsula stop operating the seven translator
24 stations after you read Official Notice Exhibit 14?

25 A No. I discuss that in my declaration in response

1 to this.

2 Q Was this decision yours alone or was it made in
3 conjunction with your wife?

4 A Made in conjunction with my wife.

5 Q Would it be fair to say that you understood that
6 by continuing to operate the translators, Peninsula was
7 deliberately risking a Commission proceeding which could
8 result in the loss of all of its licenses?

9 A Yes.

10 Q Did there come a time when you informed the
11 Commission that Peninsula was going to continue to operate
12 the seven translators notwithstanding the Commission's order
13 to the contrary?

14 A I believe that was my statement, my declaration of
15 September 10th of 2001.

16 MR. SHOOK: Your Honor, I'd like to mark that
17 September 10 statement as Enforcement Bureau Exhibit 27.

18 JUDGE SIPPEL: All right. Let's give a copy to
19 the reporter and let's have it marked as EB 27 for
20 identification.

21 (The document was marked for
22 identification as **EB** Exhibit
23 No. 27.)

24 JUDGE SIPPEL: I suppose I could actually receive
25 these into evidence at the same time. Do you have any

1 objection to 26 and 27?

2 MR. SOUTHMAYD: No, Your Honor.

3 JUDGE SIPPEL: Then what you have previously
4 marked as EB 26, the Emergency Motion for Stay, and this
5 particular document that we're marking as Exhibit 27, will
6 be both marked and received in evidence at this time.

7 (The documents referred to,
8 previously marked for
9 identification as EB Exhibit
10 Nos. 26 and 27, were received
11 in evidence.)

12 MR. SHOOK: And we all realize that the other
13 exhibits have not gone through that process.

14 JUDGE SIPPEL: We understand that. I tried to
15 make that very clear this morning. It's just a mechanical
16 thing. We'll get that done.

17 MR. SHOOK: Thank you, sir.

18 BY MR. SHOOK:

19 Q Is EB 27 the document to which you have just
20 testified about, sir?

21 A Yes.

22 MR. SHOOK: Your Honor, I'm about to enter a new
23 area, so --

24 JUDGE SIPPEL: It's almost five o'clock and why
25 don't we postpone that until tomorrow morning. Is that

1 okay?

2 MR. SOUTHMAYD: Fine. Thank you.

3 JUDGE SIPPEL: Okay? We've had a full day here.
4 We'll start at nine again tomorrow morning. I just have an
5 administrative announcement that while we were on our last
6 break, the Homeland Security threat level has been lowered,
7 I'm told, which means that you now can come in tomorrow
8 morning without being escorted. You can get up to the
9 courtroom with an escort, but you can't go up the elevators
10 without an escort. That's it. We're in recess until 9:00
11 tomorrow morning. Thank you very much.

12 You're still under oath, but that's okay. That's
13 really irrelevant because you're not going to be talking to
14 anybody except for your wife, right?

15 THE WITNESS: Yes.

16 JUDGE SIPPEL: Just a minute now. What's the
17 situation with Mrs. Becker? Is she coming? Are you going
18 to do this by transcript, by the deposition transcript?

19 MS. LANCASTER: That's the plan, Your Honor. My
20 understanding from Mr. Southmayd is that Mrs. Becker decided
21 not to come and that he, I told him that Jeff and I
22 discussed it and I'd prefer to put in the entire transcript
23 because she offers relevant testimony throughout the
24 transcript in my opinion and there's not like one section
25 that's got to come in. I would prefer that the entire

1 transcript be put in, then.

2 JUDGE SIPPEL: Yeah, but my question is with
3 respect to putting any restrictions on him talking to his
4 wife about his testimony since he's still on the stand.

5 MS. LANCASTER: Well she's not here and if she's
6 not going to come, then I don't guess it will matter.

7 JUDGE SIPPEL: Well, that's, that's procedurally
8 how it's going to work, isn't that right, Mr. Southmayd?

9 MR. SOUTHMAYD: Yes. We're going to, the options
10 based on our telephone conference were for her to appear or
11 use at least portions of her deposition testimony in lieu of
12 that, and we're going that second route.

13 JUDGE SIPPEL: Okay, because if she was going to
14 testify in here live on this same issue, I wouldn't permit
15 him to talk to her about the testimony. You can talk to
16 your wife. I mean, you would be able to talk to your wife,
17 just not about the testimony. However that restriction
18 isn't going to apply here since in effect she's already
19 testified, so whatever you want to talk to your wife about,
20 feel free to talk to her about it.

21 MS. LANCASTER: Your Honor, and I, again assume
22 that that would prohibit her from filing something
23 subsequently that goes to the issues before the hearing in
24 this case. That's the same as testimony as far as I would
25 be concerned.

1 JUDGE SIPPEL: I think that very much goes without
2 saying, but, you know, I just don't want a misunderstanding
3 down the road. All right. We are in recess until 9:00.
4 Thank you very much. Off the record.

5 (Whereupon, at 5:00 p.m., the hearing in the
6 above-entitled matter was adjourned until September 25,
7 2002, at 5:00 p.m.)

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REPORTER'S CERTIFICATE

PCC DOCKET NO.:

CASE TITLE:

HEARING DATE:

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I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date

9-24-02

Edna Thomas

Official Reporter
Heritage Reporting Corporation
1220 "L" Street, N.W.
Washington, D.C. 20005

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I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.

Date:

9/24/02

Arthur Pouch

Official Transcriber
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I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was read before the Federal Communications Commission was proofread on the date specified below.

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